

Policy

Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors

Version 1.8

Adopted by Council at its meeting on xxxxx

Minute No: xxxxx

Division: Technology and Corporate Services
Section: Corporate Governance
File Reference: Council Policies/Protocols/Procedures
Historical Reference: Version 1.8 adopted 21 November 2013
Version 1.7 adopted 13 December 2012
Version 1.6 adopted 13 December 2011
Version 1.5 adopted 16 November 2010

THIS PAGE IS BLANK

Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors

Policy Objective

In accordance with Section 439 of the Local Government Act 1993, Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under this Act or any other Act.

Furthermore, the Policy is to ensure that the Councillors would not be financially or otherwise disadvantaged in undertaking their civic responsibilities.

Definitions

The terminology of Councillor contained in this policy also applies to Administrator/s of Council, where applicable and with any legislative modification.

Policy Background

The purpose of the policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors. The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

Legislative Compliance

The Local Government Act 1993 has statutory requirements which describe what fees, expenses and facilities may be paid or provided to Councillors.

Information on the pertinent sections applicable to this policy is contained in the Division of Local Government's Circular 06-57 - Guidelines for the Payment of Expenses and the Provision of Facilities to Mayors and Councillors *and* Circular 09-36 Release of Revised Councillor Expenses and Facilities Guidelines.

The Draft Policy Version 1.8 was placed on public exhibition from 2 October 2013 to 1 November 2013. No submissions were received by Council during the public exhibition period.

Making and Adoption of the Policy

Section 252 of the Local Government Act 1993 - Payment of expenses and provision of facilities

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.

- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

Section 253 of the Local Government Act 1993 - Requirements before policy concerning expenses and facilities can be adopted or amended

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

Division of Local Government Guidelines for payment of expenses and provisions of facilities

Section 252(5) of the Local Government 1993 states the Council expenses policy must comply with these guidelines issued under Section 23A of the Act. The most recent guidelines were released in October 2009, with the most recent findings from the review by the Division of Local Government on 21 September 2011, Circular 11-27.

Model Code of Conduct

This policy is consistent with the Model Code of Conduct for Local Councils in NSW in particular with the use of Council resources.

Division of Local Government Circulars to Councils

Circular 05/08 Legal assistance for Councillors and Council employees

Circular 02/34 Unauthorised use of Council resources

Circular 09/36 Release of Revised Councillors Expenses and Facilities Guidelines

Circular 11/27 Findings from Review of Council Expenses and Facilities Policies

ICAC publications

No Excuse for Misuse, preventing the misuse of Council resources.

Definitions

Civic duties are defined as:

- Council and Committee Meetings;
- Community Meetings approved by the Mayor or General Manager;
- Meetings with the staff approved by the General Manager; and
- Conferences, seminars, training courses, formal and social functions where representing Council, approved by the Council, Mayor or General Manager;
- Meeting and corresponding with constituents in the course of discharging duties as Mayor and Councillor.

PAYMENT OF EXPENSES

General Provisions

Mayor and Councillors Annual Remuneration:

The Annual Remuneration for Mayor and Councillors, adopted by Council do not fall within the scope of this policy

No general expenses allowance

No annual, monthly or daily general expense allowance shall be payable.

Monetary limits for all expenses

Monetary limits applying to this policy include:

- Telecommunications

Councillors will be provided with a mobile telephone or smart phone with email to assist in undertaking civic duties.

Council will meet the cost of providing the mobile telephone, maintenance, monthly service and access fees, and call charges from this mobile or landline, up to a maximum of \$400 per month for the Mayor and \$200 per month for other Councillors made in the conduct of their civic duties.

- Internet

Council will meet the cost towards Internet charges involved in the conduct of the Mayor and Councillors civic duties, up to a maximum of \$90.00 per month.

- iPad/Mobile Device

Council will supply an iPad or mobile device with Wi-Fi and 3G connectivity with a 1Gb data plan.

- Multi-Function Device

Councillors may elect to the provision of a multi-function device (MFD). Council will meet the cost of maintenance and rental charges for one (1) home facsimile line, together with paper.

- Care related expenses

Councillors are entitled to the reimbursement of carer expenses, including childcare expenses and care of the elderly, disabled and/or sick immediate family members of Councillors that were necessary to enable Councillors to undertake their civic duties.

The reimbursement of expenses will be subject of a separate application by the affected Councillor in each instance, for the determination by the Mayor and General Manager.

Child/dependent care expenses are not to be reimbursed if the care is provided by a relative who ordinarily resides with the Councillor. A 'relative' is defined as a spouse, de-facto partner, parent, son, daughter, brother, sister or grandparent.

Childcare will only be provided to children of the Councillor up to and including the age of 16 years.

The maximum entitlement for such expenses is \$2,000 per annum.

- Newspapers

Council will meet the cost of provision of newspapers up to a maximum of \$75.00 per month.

- Other Related (away from home/office) Expenses

Incidental expenses incurred in attending related Council business, approved conferences, seminars, training and educational courses:

Facsimile	to and from Council Office or residence only
Internet Charges	maximum daily limit \$5.00
Laundry and Dry Cleaning	maximum daily limit \$10.00
Newspapers	maximum daily limit \$2.00
Taxi Fares	from transport destination to accommodation and/or conference venue
Parking Fees	include airport parking when plane travel is being used

Any other costs incurred by a Councillor in addition to the daily limits, are the responsibility of the individual Councillor.

When overnight accommodation is required, Councillors are to use their mobile telephones and not the hotel/motel room telephone. Special circumstances will be permitted, when mobile telephone reception does not allow the use of a mobile telephone.

- Meal Allowances

The daily limit for meals (including refreshments) when attending approved conferences, seminars, training and education courses will be in accordance with Australian Taxation Office allowance Guidelines.

Private benefit

Councillors should not obtain private benefit from the provision of equipment and facilities, nor from travel bonuses such as 'frequent flyer' schemes or any other such loyalty programs while on council business. However it is acknowledged that incidental use of council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment to council.

Where more substantial private use does occur the Act provides that a payment may be made to cover the level of that private use (refer s252 (2)).

An example of more substantial private use requiring a payment being made would include, if the monthly data of 1Gb for the 3G data provision of council issued iPads or the monthly monetary limits of telephones (\$400 Mayor, \$200 Councillor) and/or internet usage of \$90 are exceeded.

No use of council resources for political purposes

Councillors are not to use facilities, equipment and services to produce election material or for any other political purposes.

Gifts and benefits given to be of token value

In circumstances where it is appropriate for councillors to give a gift or benefit (for example on a council business related trip or when receiving visitors), these gifts and benefits should be of token value and in accordance with Council's Code of Conduct (clause 8.1).

Approval and dispute resolution processes

This policy sets out in various areas the approval arrangements for all expenses. In particular, the attendance at seminars and conferences, training and educational courses, dinners and other non – council functions.

Should a dispute arise about the provision of expenses and facilities, or when an expense claim is not approved by the Mayor **and General Manager or nominee for Councillors, or the Deputy Mayor and General Manager or nominee for the Mayor**, then the disputed decision should be reviewed by the Chair of the Audit Committee, with a report to the full council meeting.

Reimbursement and reconciliation of expenses

Reimbursement of expenses shall only be made upon the production of appropriate receipts and tax invoices and the completion of the required claim forms.

Reimbursement of claimable expenses are authorised and approved in the following manner:

- Mayor by the Deputy Mayor and Public Officer;
- Councillors by the Mayor and Public Officer.

All expenses being reimbursed must be in accordance with the provisions of this policy.

A Councillor seeking reimbursement of expenses must lodge a claim within three months of the expense being incurred.

Payment in advance

This policy does not provide for cash payments being advanced to Councillors in anticipation of expenses being incurred in the conduct of their civic duties.

Specific Expenses for Councillors (including limits)

Attendance at seminars and conferences

Attendance at conferences and seminars by Councillors must be authorised in advance by a Council Resolution. An exception may occur in an emergency, then such attendance must be authorised by the Mayor and General Manager.

The exception will only apply to short term (1 day) events and be organised within the local region.

Council will be responsible for the following expenses to be incurred by a Councillor in attending an approved conference or seminar.

- Registration Expenses

Including official luncheons, dinners and tours relevant to the conference, seminar or training course.

- Travel Expenses - Local or Outside Local Government area

As detailed within this Policy.

- Accommodation Expenses

Accommodation for attendance at approved conferences, seminars and training courses will only be authorised on the following basis:

- venue where the conference, seminar and training course is being conducted;
- where venue is unavailable, then the alternative venue is up to a standard of four star NRMA rating;
 - night before and after depending on the event and travel circumstance, such approval must be obtained in advance from the General Manager;
 - Council to make the relevant accommodation booking.

- Meals and Other Incidental Expenses

Outlined in the establishment of monetary limits and standard provisions contained in this Policy.

Attendance at training and educational courses

Attendance at training and educational courses by Councillors must be authorised in advance by a Council Resolution. An exception may occur in an emergency, then such attendance must be authorised by the Mayor and General Manager.

The exception will only apply to short term (1 day) events and be organised within the local region and facilitated by the Local Government and Shires Association, Independent Commission against Corruption or Division of Local Government.

Council will be responsible for the following expenses to be incurred by a Councillor in attending an approved training or educational courses.

- Registration Expenses

Including official luncheons, dinners and tours relevant to the training or educational course.

- Travel Expenses - Local or Outside Local Government area

As detailed within this Policy.

- Accommodation Expenses

As detailed within this policy under attendance at seminars and conferences.

- Meals and Other Incidental Expenses

Outlined in the establishment of monetary limits and standards provisions contained in this policy.

Local travel arrangements and expenses

Councillors will be entitled to be reimbursed for travel from their home whilst undertaking civic duties at the rate per kilometre as set out in the State Award, Local Government (State) Award.

Where a Councillor must use a form of transport other than own vehicle for travel within the local government area, then such approval must be obtained in advance from the Mayor or General Manager.

Travel outside local government area including interstate travel

Councillors must obtain approval from Council for all travel outside of the Local Government Area, including interstate travel.

Councillors will be entitled to travel to official engagements at Council's expense by the most practical method, i.e. aircraft, train, bus, council vehicle or private vehicle.

Travel by Air:

- Flight to be booked to be cheapest available within reasonable time frame of desired flight time (ensuring booking allows time to get to the scheduled meeting/appointment/training course/conference/seminar/workshop) on one of the following carriers: Qantas, Virgin, Jetstar, REX. Alternate carriers can be booked at discretion provided it provides better value than the airlines listed above.
- The address to be used when booking a flight is: c/- Tweed Shire Council, Tumbulgum Road or PO Box 816 Murwillumbah.
- Third party booking agents are not to be used.
- Carbon offset payment **is** to be selected.
- Seat allocation is not to be selected.
- Personal Frequent Flyer membership is not to be utilised as it constitutes a gift or benefit under the Code of Conduct.
- Travel and Baggage insurance will be considered on an as needs basis.
- Carry-on luggage is preferred and checked-in luggage will be considered on an as needs basis.

Travel by Car:

A Councillor who travels in his/her own vehicle will be reimbursed at the appropriate per kilometre rate or airfare whichever is the lower.

Legal expenses and obligations

Legal expenses for a Councillor may be either paid or reimbursed by the Council only if the matter is authorised by the Local Government Act 1993 either expressly or because it is supplemental or incidental to or consequential upon the exercise of its functions.

Council may therefore indemnify or reimburse the reasonable expenses of:

- A Councillor defending an action arising from the performance in good faith of a function under the Local Government Act (Section 731); or
- A Councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act;
- A Councillor for proceedings before the Local Government Pecuniary Interest and Disciplinary Tribunal or investigative body and where the finding is not substantially unfavourable to the Councillor; or

- In the case of a conduct complaint made against a Councillor, legal costs will only be made available where a matter has been referred by a General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in Council's Code of Conduct.

Council will not indemnify or reimburse the legal expenses of a Councillor arising merely from something that a Councillor has initiated or done or did not involve the performance of their role as a Councillor during his or her term in office.

Council will not meet the costs of an action in defamation taken by a Councillor as a plaintiff in any circumstances.

Council will not meet the costs of a Councillor seeking advice in respect of possible defamation or in seeking a non-litigious remedy for possible defamation.

Insurance expenses and obligations

Councillors are to receive the benefit of insurance cover for:

- Personal Injury

Whilst on Council business, covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit for death and capital limits as specified in the Councillors and Officers Liability Insurance Policy. Also covering permanent disablement, temporary total disability and temporary partial disability.

- Professional Indemnity

For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors provided the performance or exercise of the relevant civic duty or function in the opinion of Council is bona fide and/or proper and is carried out in good faith, as required under Section 731 of the Local Government Act.

- Public Liability

For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors, being carried out in good faith.

Attendance at dinners and other non-council functions

Consideration may be given to meeting the cost of Councillors attendance at dinners and other non-Council functions which provide briefings to Councillors from key members of the community, politicians and business.

Approval to meet expenses will only be given when the function is relevant to Council's interest and attendance at the function is open to all Councillors.

No payment will be reimbursed for any component of a ticket to support attendance by councillors at political fund raising functions.

An additional payment to a registered charity may be acceptable as part of the cost of the function.

Councillors seeking reimbursement for this type of expense must have it approved by Council and not the General Manager.

Spouse and partner expenses

Council will not normally reimburse the expenses of spouses, partners and accompanying persons for attendance at any Council function.

Council may reimburse expenses of spouse, partners and accompanying persons in certain and special circumstances at any official Council function, with prior approval being sought from the Mayor and General Manager.

Accommodation (shared basis) will be met by Council, provided that there are no additional costs incurred by Council.

Mayor and Councillors must make separate arrangements for the payment of expenses incurred by a spouse or partner.

Councillors Contributing into Superannuation

In accordance with the Australian Taxation Office Interpretative Decision of 2007/205, provides that Council may enter into an arrangement with a Councillor under which the Councillor agrees to forego all or part of their annual fee in exchange for the Council making contributions to a complying superannuation fund on their behalf.

Additional Mayoral Expenses

Additional expenses provided:

Provision of a dedicated motor vehicle

A motor vehicle bearing no markings or identification will be provided for the sole use of the Mayor.

The motor vehicle is and shall remain the property of Council and shall be surrendered to Council by the Mayor in the event that the person is no longer the Mayor.

The Mayor is to be given unrestricted use of such vehicle including private use, with the Council servicing and maintaining such vehicle, paying registration and insurance (including full comprehensive cover) and providing fuel. Private use means that the Mayor and his/her spouse or other licensed driver (provided the Mayor or Mayor's spouse is in the car) or any other Council employee are allowed to drive the vehicle.

The type of vehicle that will be provided is to be at a standard in accordance with Council's Motor Vehicle Lease Policy, and sets a standard for energy efficiency.

The vehicle is to be replaced at the most economically beneficial time as determined by the Works Manager.

Provision of Credit Card

Provision of a Mastercard with a limit of \$5,000.

PROVISION OF FACILITIES

General Provisions

Provision of facilities generally

Council will make provision for, or provide facilities and equipment to each Councillor to ensure that they can undertake their civic duties in an appropriate manner. The facilities and equipment are detailed below.

Computer Facilities

Councillors will be provided with computer facilities (options include computer, iPads or mobile device, MFD, and data) to assist in undertaking civic duties. Councillors will have the option to utilise their own equipment such as PC, mobile phone, broadband, printer, modem/router, and will be reimbursed for council business use following the submission of an expense claim in accordance with the monetary limits of all expenses.

Postage of Official Councillor Correspondence

Councillors will be reimbursed for official postage, provided expenses can be verified and where it is impractical to use the Council's own mail system.

Applications for reimbursement of postage expenses must contain verification information and be authorised by the Deputy Mayor and Public Officer for the Mayor, and Mayor and Public Officer for Councillors.

Stationery

Provision of personalised Councillor letterhead and envelopes exclusively for Council related business.

Business cards

Provision of 250 business cards (replacement on request)

Christmas cards

Maximum of 100 per year

Name badges

Councillors to be provided with a name badge

Filing cabinet

Councillors to be provided with up to two four-drawer filing cabinets if required.

Filing cabinet is to be returned if the person ceases to be a Councillor

Meetings meals and refreshments

Provision of meals and refreshments associated with Council, committee and working party meetings where appropriate

Meeting rooms/ Councillor Room

Provision of meeting room facilities, including telephone, computer network facilities and access to a photocopier in the Administration Centre for the purpose of Council, committee and working party meetings and for meeting with constituents.

Secretarial support

Provision of secretarial support, as necessary for Councillors to undertake their civic duties.

Additional Mayoral Equipment and Facilities

Other equipment, facilities and services

Other equipment, facilities and services that are to be provided by Council for the use of the Mayor are as follows:

- An experienced person suitably qualified to provide secretarial support to the Mayor.
- Mayoral letterhead, envelopes and stationery generally
- Where appropriate assistance with the organisation of functions, meetings and briefings to which the Mayor is invited to attend.
- A furnished office will be provided at the Council Administration Office, to enable the Mayor to undertake the civic duties appropriate to that position.
- Limited refreshments will be provided in the Mayoral Office for entertainment purposes.
- An allotted parking space will be provided at the Council Administration Offices for the parking of the Mayoral vehicle.

OTHER MATTERS

Acquisition and returning of facilities and equipment by Councillors

Councillors are to return to Council, where appropriately practicable, after the completion of their term of office or entering extended leave of absence or at the cessation of their civic duties all facilities and equipment that have been allocated by Council.

Should a Councillor desire to keep any equipment allocated by Council, then this policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.

Status of the Policy

The provisions of the Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors shall remain valid until revoked or amended by Council.

Related Legislation

Local Government Act 1993

Compliance

Not applicable

Forms

Expense Claim Forms

Review Period

This policy will be reviewed within 12 months of the election of each new Council or more frequently in the event of any legislative changes or change in circumstances.

Useful Links

[Tweed Shire Council website](#)

Version Control:

Version History		
Version #	Summary of changes made	Date changes made
1.7	Incorporated into new policy template	20/06/2013
1.8	Reference to newspapers included in Payment of Expenses - General Provisions - Monetary limits for all expenses category. Also an update to the number of filing cabinets to be provided.	22 August 2013 Adopted 21/11/2013 at Minute No 785.
1.8	No change	16 October 2014